

Local Law No. 5: Modification to Chapter 30 of the Town Code,
 Procurement Policy

(SEE ATTACHED)

PROCUREMENT AND PURCHASING POLICY
Updated 7/20/15

Background

This policy has been developed to ensure that the Town of West Seneca, New York (the "Town") is in compliance with New York State Municipal Law concerning the procurement of goods and services as defined herein.

Pursuant to Section 104-b of the New York State General Municipal Law, each municipal governing body is to adopt a procurement policy for all goods and services which are not required by law to be publicly bid. This ensures that goods and services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys, in the best interests of the taxpayers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

In accordance with New York State General Municipal Law §103, all purchase contracts involving an expenditure of more than \$20,000¹ and all contracts for public works involving an expenditure of more than \$35,000² must be publicly bid.

This policy supersedes any policy previously issued and approved. This policy should be revisited annually at the Town's reorganization meeting.

Guidelines

A. Determine Aggregates

- (1) Every prospective purchase of goods or services shall be evaluated to determine the applicability of § 103 of the General Municipal Law. To determine whether the intended procurement is subject to competitive bidding, Town Officers, board members, department heads or other personnel must first determine if the expected town wide aggregate will exceed the aforementioned thresholds of \$20,000 for purchase contracts or \$35,000 for public works within 12 months of the planned purchase.

Under General Municipal Law §103, aggregates must be examined in two ways:

- a) By Commodity or Service – Every town officer, board, department head or other personnel must determine the reasonably expected aggregate amount of all purchases of the same commodities, services or technology that will be made within 12 months of the date of the planned purchase.
 - b) By Vendor – Every town officer, board, department head or other personnel must also determine the reasonably expected aggregate amount of all purchases of the same commodities, services or technology within 12 months of the date of the planned purchase will be made from the same vendor.
- (2) Every town officer, board, department head or other personnel with the requisite purchasing authority (purchaser) shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

1 Chapter 56 N.Y. Laws of 2010
2 Chapter 494 N.Y. Laws of 2009

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B. *Quotes and proposals*

Estimated Amount of Purchase Contract

\$20,000 and above (required)

Method

Formally bid pursuant to §103 of the General Municipal Law

\$10,000 - \$19,999.99

Require a written request for proposal (RFP) and written quotes from three (3) vendors

\$5,000 - \$9,999.99

Require an oral request for the goods and written/email quotes from two (2) vendors

\$2,500 - \$4,999.99

Written/email approval from Town Board liaison, as designated at reorganization meeting

\$0 - \$2,499.99

Left to the discretion of the purchaser

Estimated Public Works Contract

\$35,000 and above (required)

Method

Formally bid pursuant to §103 of the General Municipal Law

\$10,000 - \$34,999.99

Require a written request for proposal (RFP) and written quotes from three (3) vendors

\$5,000 - \$9,999.99

Require an oral request for the goods and written/email quotes from two (2) vendors

\$2,500 - \$4,999.99

Written/email approval from Town Board liaison, as designated at reorganization meeting

\$0 - \$2,499.99

Left to the discretion of the purchaser

Any exceptions to the aforementioned thresholds (i.e. sole source provider, etc.) and quote requirements must be documented with a detailed explanation.

C. *Documentation*

- (1) Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.
- (2) Any information gathered in complying with the procedures of this chapter shall be preserved and filed with documentation supporting the subsequent purchase of public works contract.
- (3) All purchases greater than \$4,999.99 require of the submission of the Town's standardized quotes form.
- (4) Electronic documentation shall be held in accord for compliance with Electronic Signatures and Records Act.

D. Good Faith Effort

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

E. Claims approval

All expenditures are subject to the Town's claims approval process. Each claim shall be individually approved by the Department Head, the Finance Department and a Board Member. Prior to processing for payment all claims should be reviewed and audited by the remaining Board Members (2). After such audit the Board shall pass a resolution acknowledging the claims have been audited.

Exceptions to the Procurement Policy

Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- (1) Acquisition of professional services*.
- (2) Emergencies.
- (3) Sole source situations.
- (4) Goods purchased from agencies for the blind or severely handicapped.
- (5) Goods purchased from another governmental agency.
- (6) Goods purchased at auction.
- (7) Goods purchased for less than five hundred dollars (\$500).
- (8) Public works contracts for less than five hundred dollars (\$500).

* All professional services contracts shall be examined by the Town Board every five years; however, such review does not necessitate a written proposal or quotation.

The decision that a purchase is not subject to competitive bidding should be documented in writing by the individual making the purchase. This documentation may include a memo from the purchaser explaining the decision, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.